

HOUSE BILL 1142

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO LICENSING; RENAMING AND REVISING THE PRIVATE INVESTIGATORS AND POLYGRAPHERS ACT; IDENTIFYING REGULATED PERSONS; CREATING THE PRIVATE INVESTIGATIONS ADVISORY BOARD; CHANGING THE NAME OF THE PRIVATE INVESTIGATOR AND POLYGRAPHER FUND; PROVIDING PENALTIES; PROVIDING FEE LIMITATIONS; PROVIDING FOR A TRANSITION PERIOD; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-27A-1 NMSA 1978 (being Laws 1993, Chapter 212, Section 1, as amended) is amended to read:

"61-27A-1. SHORT TITLE.--Chapter 61, Article 27A NMSA 1978 may be cited as the "Private ~~[Investigators and Polygraphers]~~ Investigations Act"."

Section 2. Section 61-27A-2 NMSA 1978 (being Laws 1993, .166034.2

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1 Chapter 212, Section 2, as amended) is amended to read:

2 "61-27A-2. DEFINITIONS.--As used in the Private

3 [~~Investigators and Polygraphers~~] Investigations Act:

4 [~~A. "alarm company" means a company that installs~~
5 ~~burglar or security alarms in a facility and responds with~~
6 ~~guards when the alarm is sounded;~~

7 ~~B.]~~ A. "armored car company" means a company that
8 knowingly and willingly transports money and other negotiables
9 for a fee or other remuneration;

10 [~~G.]~~ B. "bodyguard" means [~~a person~~] an individual
11 who physically performs the mission of personal security [~~of~~]
12 for another individual;

13 [~~D.]~~ C. "branch office" means an office of a
14 private investigation company or a private patrol company
15 physically located in New Mexico and managed, controlled or
16 directed by a private investigations manager or private patrol
17 operations manager;

18 [~~E.]~~ D. "client" means an individual or legal
19 entity having a contract that authorizes services to be
20 provided in return for financial or other consideration;

21 [~~F.]~~ E. "conviction" means any final adjudication
22 of guilty, whether pursuant to a plea of guilty or nolo
23 contendere or otherwise and whether or not the sentence is
24 deferred or suspended;

25 [~~G.]~~ F. "department" means the regulation and

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1 licensing department;

2 G. "individual" means a single human being;

3 H. "legal business entity" means a sole
4 proprietorship, corporation, partnership, limited liability
5 company, limited liability partnership or other entity formed
6 for business purposes;

7 [~~H.~~] I. "licensee" means a person licensed [as a:

8 ~~(1) private investigator;~~

9 ~~(2) private patrol operator; or~~

10 ~~(3) polygraph examiner;~~

11 ~~I. "manager" means an individual who:~~

12 ~~(1) has the qualifications required of a~~
13 ~~licensee; and~~

14 ~~(2) directs, controls or manages a private~~
15 ~~investigator or private patrol operator business for the owner~~
16 ~~of the business when the owner does not qualify for a license~~
17 ~~under the Private Investigators and Polygraphers Act;~~

18 ~~J. "person" means any individual, firm, company,~~
19 ~~association, organization, partnership or corporation] pursuant~~
20 to the Private Investigations Act;

21 J. "polygraph examiner" means an individual
22 licensed by the department to engage in the practice of
23 polygraphy;

24 K. "polygraphy" means [the employment of] the
25 process of employing an instrument designed to graphically

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1 record simultaneously the physiological changes in human
2 respiration, cardiovascular activity, galvanic skin resistance
3 or reflex for the purpose of lie detection and includes the
4 reading and interpretation of polygraphic records and results;

5 L. "private investigation company" means a legal
6 business entity that provides private investigation services,
7 the location of which may be within or outside of the state,
8 provided that the private investigation services are preformed
9 within New Mexico;

10 [~~L.~~] M. "private investigator" means [a person who
11 for any consideration whatsoever engages in business or accepts
12 employment to conduct an investigation for the purpose of
13 obtaining information with reference to] an individual who is
14 licensed by the department to engage in business or who accepts
15 employment to conduct an investigation pursuant to the Private
16 Investigations Act to obtain information regarding:

17 (1) crime or wrongs done or threatened against
18 the United States or any state or territory of the United
19 States;

20 (2) [~~the identity, habits, conduct, business,~~
21 ~~occupation, honesty, integrity, credibility, knowledge,~~
22 ~~trustworthiness, efficiency, loyalty, activity, movement,~~
23 ~~whereabouts, affiliation, association, transactions, acts,~~
24 ~~reputation or character of any] a person;~~

25 (3) the location, disposition or recovery of

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1 lost or stolen property;

2 (4) the cause or responsibility for fires,
3 losses, accidents or damage or injury to persons or properties;
4 or

5 (5) the securing of evidence to be used before
6 [any] a court, administrative tribunal, board [officer] or
7 investigating committee or for a law enforcement officer;

8 [M. "private investigator employee" means an
9 individual who is working under the license and bond of a
10 private investigator;]

11 N. "private investigations employee" means an
12 individual who is registered by the department to work under
13 the direct control and supervision of a private investigator
14 for a private investigation company;

15 O. "private investigations manager" means an
16 individual who:

17 (1) is licensed as a private investigator and
18 is issued a license by the department as a private
19 investigations manager;

20 (2) directs, controls or manages a private
21 investigation company for the owner of the company; and

22 (3) is assigned to and operates from the
23 private investigation company that the private investigations
24 manager is licensed to manage or from a branch office of that
25 private investigation company;

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1 P. "private patrol company" means a legal business
2 entity, the location of which may be within or outside of the
3 state, including an independent or proprietary commercial
4 organization that provides private patrol operator services
5 that are performed in New Mexico and the activities of which
6 include employment of licensed private patrol operators or
7 security guards;

8 Q. "private patrol employee" means an individual
9 who is registered by the department to work under the direct
10 control and supervision of a private patrol operator for a
11 private patrol company;

12 R. "private patrol operations manager" means an
13 individual who:

14 (1) is licensed as a private patrol operator
15 or registered as a level three security guard and is issued a
16 license by the department as a private patrol operations
17 manager;

18 (2) directs, controls or manages a private
19 patrol company for the owner of the company; and

20 (3) is assigned to and operates from the
21 private patrol company that the private patrol operations
22 manager is licensed to manage or from a branch office of that
23 private patrol company;

24 ~~[N.] S. "private patrol operator" [or "operator of~~
25 ~~a private patrol service"] means [a person who for any~~

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1 ~~consideration whatsoever agrees]~~ an individual who is licensed
2 by the department to:

3 (1) [~~furnish or furnishes a]~~ conduct uniformed
4 or nonuniformed services as a watchman, security guard or
5 patrolman [~~or other person]~~ to protect property and [~~any]~~
6 persons on or in the property;

7 (2) prevent the theft, unlawful taking, loss,
8 embezzlement, misappropriation or concealment of [~~any~~] goods,
9 wares, merchandise, money, bonds, stocks, notes, documents,
10 papers or property of any kind; or

11 (3) perform the [~~service of]~~ services required
12 of a security guard [~~armored car company]~~ or security dog
13 [~~company]~~ handler or provide security services for an armored
14 car company;

15 [~~A private patrol operator may not make any investigation~~
16 ~~except those that are incidental to the theft, loss,~~
17 ~~embezzlement, misappropriation or concealment of any property~~
18 ~~or any other item enumerated in the Private Investigators and~~
19 ~~Polygraphers Act that he has been hired or engaged to protect,~~
20 ~~guard or watch;~~

21 O. ~~"security dog company" means a company that uses~~
22 ~~trained dogs with handlers to perform a security mission at a~~
23 ~~location; and]~~

24 T. "proprietary commercial organization" means an
25 organization or division of an organization that provides full-

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1 or part-time security guard services solely for itself;

2 U. "registrant" means an individual registered as a
3 private investigations employee, a private patrol operations
4 employee or a security guard at any level;

5 V. "security dog handler" means an individual who
6 trains or patrols with dogs to detect illegal substances or
7 explosives;

8 ~~[P.]~~ W. "security guard" means [any] an individual
9 who is [an employee of a private patrol operator and employed]
10 registered to engage in uniformed or nonuniformed services
11 under the direct control and supervision of a licensed private
12 patrol operator or a private patrol operations manager to
13 perform such security missions as watchman, fixed post guard,
14 dog handler, patrolman or other person to protect property or
15 prevent thefts; and

16 X. "special event" means a parade or other public
17 or private event of short duration requiring security."

18 Section 3. Section 61-27A-3 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 3) is amended to read:

20 "61-27A-3. LICENSE REQUIRED.--It is unlawful for [any
21 person] an individual to:

22 A. act as a private investigator, [a] private
23 patrol operator, security guard, private investigations
24 employee, private investigations manager or [a] private patrol
25 operations manager or to [represent himself to be] make any

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1 representation as being a licensee or [a manager] registrant
2 unless [he] the individual is licensed [under] by the
3 department pursuant to the Private [Investigators and
4 Polygraphers] Investigations Act;

5 B. render physical protection for remuneration as a
6 bodyguard unless [he] the individual is licensed as a private
7 investigator or a private patrol operator;

8 C. continue to act as a private investigator,
9 private patrol operator, security guard, private investigations
10 employee, private investigations manager or private patrol
11 operations manager if [his] the individual's license issued
12 pursuant to [~~that~~] the Private Investigations Act has expired;

13 D. falsely represent that [he] the individual is
14 employed by a licensee; or

15 E. practice polygraphy for any remuneration without
16 a license issued by the department in accordance with the
17 Private [~~Investigators and Polygraphers~~] Investigations Act."

18 Section 4. Section 61-27A-4 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 4) is amended to read:

20 "61-27A-4. PERSONS EXEMPTED.--The Private [~~Investigators~~
21 ~~and Polygraphers~~] Investigations Act does not apply to:

22 [~~A. attorneys;~~

23 [~~B. a person employed exclusively and regularly by~~
24 ~~one employer in connection with the affairs of such employer~~
25 ~~only where there exists an employer-employee relationship;]~~

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1 A. an attorney licensed in New Mexico conducting
2 private investigations while engaged in the practice of law;

3 ~~G.~~ B. an officer or employee of the United States
4 or this state or a political subdivision of the United States
5 or this state while that officer or employee is engaged in the
6 performance of ~~his~~ the officer's or employee's official
7 duties;

8 ~~D.~~ C. a person engaged exclusively in the
9 business of obtaining and furnishing information concerning the
10 financial rating of persons;

11 ~~E.~~ D. a charitable philanthropic society or
12 association duly incorporated under the laws of this state that
13 is organized and maintained for the public good and not for
14 private profit;

15 ~~F.~~ E. a licensed collection agency or an employee
16 ~~thereof~~ of the agency while acting within the scope of ~~his~~
17 employment while making an investigation incidental to the
18 business of the agency, including an investigation of the
19 location of a debtor or ~~his~~ the debtor's property;

20 ~~G.~~ F. admitted insurers, adjusters, agents and
21 insurance brokers licensed by the state performing duties in
22 connection with insurance transactions by them; or

23 ~~H. any~~ G. an institution subject to the
24 jurisdiction of the director of the financial institutions
25 division of the department or the comptroller of currency of

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1 the United States."

2 Section 5. Section 61-27A-5 NMSA 1978 (being Laws 1993,
3 Chapter 212, Section 5) is amended to read:

4 "61-27A-5. ADMINISTRATION OF ACT--RULES [~~AND~~
5 ~~REGULATIONS~~].--

6 A. The department shall enforce and administer the
7 provisions of the Private [~~Investigators and Polygraphers~~]
8 Investigations Act.

9 [~~B. The department shall appoint an advisory board~~
10 ~~to assist in the conduct of the examination process for~~
11 ~~licensure and in any other manner to aid in the administration~~
12 ~~of that act. The advisory board shall consist of two licensed~~
13 ~~private investigators, one licensed private patrol operator,~~
14 ~~one licensed polygraph examiner and one member of the public.~~
15 ~~Members of the board shall be reimbursed as provided in the Per~~
16 ~~Diem and Mileage Act.~~

17 ~~G.]~~ B. The department shall keep a record of each
18 individual licensee. [~~and each employee of a private~~
19 ~~investigator or private patrol operator.~~

20 ~~D.]~~ C. The department shall adopt and enforce rules
21 [~~and regulations~~] necessary to carry out the provisions of the
22 Private [~~Investigators and Polygraphers~~] Investigations Act,
23 including [~~requirements for continuing education~~] establishing
24 professional ethical standards.

25 D. The department shall adopt rules regarding:

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1 (1) licensing private investigators, private
2 investigations managers, private investigation companies,
3 private patrol operators, private patrol operations managers,
4 private patrol employees and polygraph examiners;

5 (2) registering private investigations
6 employees, security guards and private patrol employees;

7 (3) establishing minimum training and
8 educational standards for licensure and registration;

9 (4) establishing continuing education
10 requirements;

11 (5) establishing and operating a branch
12 office;

13 (6) creating a policy on reciprocity with
14 other states and territories of the United States;

15 (7) providing permits for security guards for
16 special events; and

17 (8) conducting background investigations."

18 Section 6. A new section of the Private Investigations
19 Act, Section 61-27A-5.1 NMSA 1978, is enacted to read:

20 "61-27A-5.1. [NEW MATERIAL] PRIVATE INVESTIGATIONS
21 ADVISORY BOARD--CREATED--MEMBERS.--

22 A. The "private investigations advisory board" is
23 created.

24 B. The superintendent of regulation and licensing
25 shall appoint members to the advisory board to assist in the

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1 conduct of the examination process for licensees and
2 registrants and to assist the department in other manners as
3 requested by the superintendent or provided for in rules of the
4 department.

5 C. The advisory board members shall consist of at
6 least the following:

- 7 (1) two private investigators;
- 8 (2) one private patrol operator;
- 9 (3) one polygraph examiner; and
- 10 (4) one member of the public.

11 D. Members of the advisory board shall be
12 reimbursed pursuant to the Per Diem and Mileage Act and shall
13 receive no other compensation, perquisite or allowance for each
14 day spent in the discharge of their duties.

15 E. The public member of the advisory board or the
16 public member's spouse shall not:

- 17 (1) have been licensed pursuant to the Private
18 Investigations Act, the Private Investigators and Polygraphers
19 Act or any prior similar statutory provisions; or
- 20 (2) have a direct or indirect financial
21 interest in a private investigation company, private patrol
22 company, polygraph business or a related business."

23 Section 7. Section 61-27A-6 NMSA 1978 (being Laws 1993,
24 Chapter 212, Section 6, as amended) is amended to read:

25 "61-27A-6. REQUIREMENTS FOR LICENSURE.--

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1 A. The department shall issue a license [~~for~~] as a
2 private investigator to [~~a person~~] an individual who files a
3 completed application accompanied by the required fees and who
4 submits satisfactory evidence that the applicant has met all
5 requirements set forth by the department in rule, including
6 that the applicant:

7 (1) is at least [~~eighteen~~] twenty-one years of
8 age;

9 (2) is of good moral character;

10 (3) has successfully passed [~~a written~~] an
11 examination as [~~prescribed~~] required by [~~the~~] department rule;

12 [~~(4) has at least three years' experience~~
13 ~~within the last five years in investigative work or a level of~~
14 ~~experience determined to be sufficient by the department; and~~

15 ~~(5)]~~ (4) has not been convicted of a felony
16 offense or [~~a criminal offense involving moral turpitude or the~~
17 ~~illegal use or possession of a deadly weapon~~] an offense
18 involving an intentional violent act or the illegal use or
19 possession of a deadly weapon and has not been found to have
20 violated professional ethical standards; and

21 [~~B. The department shall issue a license for a~~
22 ~~private investigator manager to a person who files a completed~~
23 ~~application accompanied by the required fees and who submits~~
24 ~~satisfactory evidence that the applicant:~~

25 (1) ~~is at least eighteen years of age;~~

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1 ~~(2) has passed a written examination as~~
2 ~~prescribed by the department;~~

3 ~~(3) has at least three years' experience~~
4 ~~within the last five years in investigative work or a level of~~
5 ~~experience determined to be sufficient by the department;~~

6 ~~(4) is of good moral character; and~~

7 ~~(5) has not been convicted of a felony offense~~
8 ~~or a criminal offense involving moral turpitude or the illegal~~
9 ~~use or possession of a deadly weapon.~~

10 ~~C. The department shall issue a license for a~~
11 ~~private patrol operator to a person who files a completed~~
12 ~~application accompanied by the required fees and who submits~~
13 ~~satisfactory evidence that the applicant:~~

14 ~~(1) is at least eighteen years of age;~~

15 ~~(2) is of good moral character;~~

16 ~~(3) has passed a written examination as~~
17 ~~prescribed by the department;~~

18 ~~(4) has at least three years' experience~~
19 ~~within the last five years in security work or a level of~~
20 ~~experience determined to be sufficient by the department; and~~

21 ~~(5) has not been convicted of a felony offense~~
22 ~~or a criminal offense involving moral turpitude or the illegal~~
23 ~~use or possession of a deadly weapon.~~

24 ~~D. The department shall issue a license for a~~
25 ~~private patrol operator manager to a person who files a~~

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1 ~~completed application accompanied by the required fees and who~~
2 ~~submits satisfactory evidence that the applicant:~~

3 ~~(1) is at least eighteen years of age;~~

4 ~~(2) has passed a written examination as~~
5 ~~prescribed by the department;~~

6 ~~(3) has at least three years' experience~~
7 ~~within the last five years in security work or a level of~~
8 ~~experience determined to be sufficient by the department;~~

9 ~~(4) is of good moral character; and~~

10 ~~(5) has not been convicted of a felony offense~~
11 ~~or a criminal offense involving moral turpitude or the illegal~~
12 ~~use or possession of a deadly weapon.~~

13 ~~E. A manager's license is required when the owner~~
14 ~~of a private investigator or private patrol operator business~~
15 ~~does not qualify for a license under the Private Investigators~~
16 ~~and Polygraphers Act.~~

17 ~~F. The department shall issue a security guard~~
18 ~~pocket card to a person who files a completed application~~
19 ~~accompanied by the required fees and who submits satisfactory~~
20 ~~evidence that the applicant:~~

21 ~~(1) is at least eighteen years of age; and~~

22 ~~(2) is of good moral character.~~

23 ~~G. The department shall issue a license for~~
24 ~~polygrapher to a person who files a completed application~~
25 ~~accompanied by the required fees and who submits satisfactory~~

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1 ~~evidence that the applicant:~~

2 ~~(1) is at least eighteen years of age;~~

3 ~~(2) possesses a high school diploma or its~~
4 ~~equivalent;~~

5 ~~(3) has not been convicted of a felony or~~
6 ~~misdemeanor involving moral turpitude; and~~

7 ~~(4) has graduated from a polygraph examiners~~
8 ~~course approved by the department and:~~

9 ~~(a) has completed a probationary~~
10 ~~operational competency period and passed an examination of~~
11 ~~ability to practice polygraphy; or~~

12 ~~(b) has submitted proof of holding, for~~
13 ~~a minimum of two years immediately prior to the date of~~
14 ~~application, a current license to practice polygraphy in~~
15 ~~another jurisdiction whose standards equal or surpass those of~~
16 ~~New Mexico]~~

17 (5) has at least three years' experience that
18 has been acquired within the five years preceding the filing of
19 the application with the department, consisting of not less
20 than six thousand hours of actual work performed in:

21 (a) investigation for the purpose of
22 obtaining information with reference to a crime or wrongs done
23 or threatened against the United States;

24 (b) investigation of persons;

25 (c) the location, disposition or

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1 recovery of lost or stolen property;

2 (d) the cause or responsibility for
3 fire, losses, accidents or damage or injury to persons or
4 property; or

5 (e) securing evidence to be used before
6 a court, administrative tribunal, board or investigating
7 committee or for a law enforcement officer.

8 B. Years and hours of qualifying experience and the
9 precise nature of that experience shall be substantiated by
10 written certification from employers and shall be subject to
11 independent verification by the department as it deems
12 warranted. The burden of proving necessary experience is on
13 the applicant."

14 Section 8. A new section of the Private Investigations
15 Act, Section 61-27A-6.1 NMSA 1978, is enacted to read:

16 "61-27A-6.1. [NEW MATERIAL] PRIVATE INVESTIGATION
17 COMPANY--REQUIREMENTS FOR LICENSURE.--

18 A. The department shall issue a license for a
19 private investigation company to a person that files a
20 completed application accompanied by the required fees and that
21 submits satisfactory evidence that the applicant:

22 (1) if an individual, is of good moral
23 character; or if a legal business entity, the owners, officer
24 or directors of the entity are of good moral character;

25 (2) if an individual, has not been convicted

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1 of a felony offense involving an intentional violent act or the
2 illegal use or possession of a deadly weapon and has not been
3 found to have violated professional ethical standards; or if a
4 legal business entity, the owners, officers or directors of the
5 entity have not been convicted of felony offenses involving
6 intentional violent acts or the illegal use or possession of
7 deadly weapons and have not been found to have violated
8 professional ethical standards;

9 (3) maintains a surety bond in the amount of
10 ten thousand dollars (\$10,000); however, private investigators
11 who provide personal protection or bodyguard services shall
12 maintain general liability insurance as specified in the
13 Private Investigations Act in lieu of the surety bond required
14 by the provisions of this paragraph;

15 (4) has an owner or a licensed private
16 investigations manager who is licensed as a private
17 investigator and who manages the daily operations of the
18 private investigation company;

19 (5) maintains a physical location in New
20 Mexico where records are maintained and made available for
21 department inspection;

22 (6) maintains a New Mexico registered agent if
23 the applicant is a private investigation company located
24 outside of New Mexico; and

25 (7) meets all other requirements set forth in

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1 the rules of the department.

2 B. The owner or the chief executive officer of a
3 private investigation company that provides personal protection
4 or bodyguard services shall maintain a general liability
5 certificate of insurance in an amount required by the
6 department. The department shall suspend the license issued
7 pursuant to this section of a private investigation company
8 that fails to maintain an effective general liability
9 certificate of insurance as required. The department shall not
10 reinstate the license of a private investigation company that
11 has had its license suspended pursuant to this subsection until
12 an application is submitted to the department with the
13 necessary fees and a copy of the private investigation
14 company's general liability certificate of insurance newly in
15 effect. The department may deny an application for
16 reinstatement of a private investigation company's license,
17 notwithstanding the applicant's compliance with this subsection
18 for:

19 (1) a reason that would justify a denial to
20 issue a new private investigation company license or that would
21 be cause for a suspension or revocation of a private
22 investigation company's license; or

23 (2) the performance by the applicant of an act
24 requiring a license issued pursuant to the Private
25 Investigations Act while the applicant's license is under

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1 suspension for failure to maintain the applicant's general
2 liability certificate of insurance in effect."

3 Section 9. A new section of the Private Investigations
4 Act, Section 61-27A-6.2 NMSA 1978, is enacted to read:

5 "61-27A-6.2. [NEW MATERIAL] PRIVATE INVESTIGATIONS
6 MANAGER--REQUIREMENTS FOR LICENSURE--NOTIFICATION OF DEPARTMENT
7 IN EVENT OF TERMINATION OF EMPLOYMENT.--

8 A. The department shall issue a license for a
9 private investigations manager to an individual who files a
10 completed application accompanied by the required fees and who
11 submits satisfactory evidence that the applicant:

12 (1) possesses a current license in good
13 standing as a private investigator;

14 (2) has successfully passed an examination
15 required by department rules;

16 (3) is employed by the private investigation
17 company that the applicant is being licensed to manage; and

18 (4) meets other requirements set forth in the
19 rules of the department.

20 B. A private investigations manager who ceases to
21 be employed by the private investigation company that the
22 manager is licensed to manage, before leaving the company,
23 shall surrender the private investigations manager's license to
24 the owner, officer or director who is required to temporarily
25 take over the management of the private investigation company.

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1 The owner, officer or director who temporarily takes over
2 managing the private investigation company within thirty days
3 of the termination from employment of the private
4 investigations manager shall:

5 (1) notify the department of the termination
6 of the employment of the private investigations manager;

7 (2) submit the surrendered license; and

8 (3) submit an application to the department
9 naming a new private investigations manager, who shall not
10 begin to perform the duties of a private investigations manager
11 until and unless the department grants the applicant a private
12 investigations manager's license.

13 C. Failure to notify the department within thirty
14 days of the private investigations manager's termination from
15 employment subjects the license of the private investigation
16 company to suspension or revocation by the department.

17 D. Reinstatement of the private investigation
18 company's license may occur only upon the filing of an
19 application for reinstatement and payment of the reinstatement
20 fee."

21 Section 10. A new section of the Private Investigations
22 Act, Section 61-27A-6.3 NMSA 1978, is enacted to read:

23 "61-27A-6.3. [NEW MATERIAL] PRIVATE PATROL OPERATOR--
24 REQUIREMENTS FOR LICENSURE.--

25 A. The department shall issue a license for a

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1 private patrol operator to an individual who files a completed
2 application accompanied by the required fees and who submits
3 satisfactory evidence that the applicant:

4 (1) is at least twenty-one years of age;

5 (2) is of good moral character;

6 (3) has successfully passed an examination as
7 required by department rules;

8 (4) has not been convicted of a felony offense
9 involving an intentional violent act or the illegal use or
10 possession of a deadly weapon and has not been found to have
11 violated professional ethical standards;

12 (5) has at least three years' experience of
13 not less than six thousand hours of actual work performed as a
14 security guard or an equivalent position, one year of which
15 shall have been in a supervisory capacity. The experience
16 shall have been acquired within five years preceding the filing
17 of the application with the department. Years and hours of
18 qualifying experience and the precise nature of that experience
19 shall be substantiated by written certification from the
20 applicant's employers and shall be subject to independent
21 verification by the department as it determines is warranted.

22 The burden of proving necessary experience is on the applicant;

23 (6) is firearm certified, if the position will
24 require being armed with a firearm; and

25 (7) meets other requirements set forth in

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1 rules of the department.

2 B. A private patrol operator may not investigate
3 acts except those that are incidental to a theft, embezzlement,
4 loss, misappropriation or concealment of property or other item
5 that the private patrol operator has been engaged or hired to
6 protect, guard or watch."

7 Section 11. A new section of the Private Investigations
8 Act, Section 61-27A-6.4 NMSA 1978, is enacted to read:

9 "61-27A-6.4. [NEW MATERIAL] PRIVATE PATROL COMPANY--
10 REQUIREMENTS FOR LICENSURE.--

11 A. The department shall issue a license for a
12 private patrol company to a person who files a completed
13 application accompanied by the required fees and who submits
14 satisfactory evidence that the applicant:

15 (1) if an individual, is of good moral
16 character; or if a legal business entity, the owners, officers
17 or directors of the entity are of good moral character;

18 (2) if an individual, has not been convicted
19 of a felony offense involving an intentional violent act or the
20 illegal use or possession of a deadly weapon and has not been
21 found to have violated professional ethical standards, or if a
22 legal business entity, the owners, officers or directors of the
23 entity have not been convicted of felony offenses involving an
24 intentional violent act or the illegal use or possession of a
25 deadly weapon and have not been found to have violated

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1 professional ethical standards;

2 (3) has an owner or a licensed private patrol
3 operations manager who manages the daily operations of the
4 private patrol company;

5 (4) maintains a physical location in New
6 Mexico where records are maintained and made available for
7 department inspection;

8 (5) maintains a New Mexico registered agent if
9 the applicant is a private patrol company located outside of
10 New Mexico; and

11 (6) meets all other requirements set forth in
12 the rules of the department.

13 B. The owner or the chief executive officer of a
14 private patrol company shall maintain a general liability
15 certificate of insurance in an amount required by the
16 department. The department shall suspend the license issued
17 pursuant to this section of a private patrol company that fails
18 to maintain an effective general liability certificate of
19 insurance as required. The department shall not reinstate the
20 license of a private patrol company that has had its license
21 suspended pursuant to this subsection until an application is
22 submitted to the department with the necessary fees and a copy
23 of the private patrol company's general liability certificate
24 of insurance newly in effect. The department may deny an
25 application for reinstatement of a private patrol company's

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1 license, notwithstanding the applicant's compliance with this
2 subsection for:

3 (1) a reason that would justify a denial to
4 issue a new private patrol company license or that would be
5 cause for a suspension or revocation of a private patrol
6 company's license; or

7 (2) the performance by the applicant of an act
8 requiring a license issued pursuant to the Private
9 Investigations Act while the applicant's license is under
10 suspension for failure to maintain the applicant's general
11 liability certificate of insurance in effect."

12 Section 12. A new section of the Private Investigations
13 Act, Section 61-27A-6.5 NMSA 1978, is enacted to read:

14 "61-27A-6.5. [NEW MATERIAL] PRIVATE PATROL OPERATIONS
15 MANAGER--REQUIREMENT FOR LICENSURE--NOTIFICATION OF DEPARTMENT
16 IN EVENT OF TERMINATION OF EMPLOYMENT.--

17 A. The department shall issue a license for a
18 private patrol operations manager to an individual who files a
19 completed application accompanied by the required fees and who
20 submits satisfactory evidence that the applicant:

21 (1) possesses a current license in good
22 standing as a private patrol operator or a registration as a
23 level three security guard;

24 (2) has successfully passed an examination
25 required by department rule;

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1 (3) is employed by the private patrol company
2 that the applicant is being licensed to manage; and

3 (4) meets other requirements set forth in the
4 rules of the department.

5 B. A private patrol operations manager who ceases
6 to be employed by the private patrol company that the manger is
7 licensed to manage, before leaving the company, shall surrender
8 the private patrol operations manager's license to the owner,
9 officer or director who is required to temporarily take over
10 the management of the private patrol company. The owner,
11 officer or director who temporarily takes over managing the
12 private patrol company within thirty days of the termination
13 from employment of the private patrol operations manager shall:

14 (1) notify the department of the termination
15 of the employment of the private patrol operations manager;

16 (2) submit the surrendered license; and

17 (3) submit an application to the department
18 naming a new private patrol operations manager, who shall not
19 begin to perform the duties of a private patrol operations
20 manager until the department grants the applicant a private
21 patrol operations manager's license.

22 C. Failure to notify the department within thirty
23 days of the private patrol operations manager's termination
24 from employment subjects the license of the private patrol
25 company to suspension or revocation by the department.

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1 D. Reinstatement of the private patrol company's
2 license may occur only upon the filing of an application for
3 reinstatement and payment of the reinstatement fee."

4 Section 13. A new section of the Private Investigations
5 Act, Section 61-27A-6.6 NMSA 1978, is enacted to read:

6 "61-27A-6.6. [NEW MATERIAL] POLYGRAPH EXAMINER.--The
7 department shall issue a license as a polygraph examiner to an
8 individual who files a completed application accompanied by the
9 required fees and who submits satisfactory evidence that the
10 applicant:

11 A. is at least eighteen years of age;

12 B. is of good moral character;

13 C. possesses a high school diploma or its
14 equivalent;

15 D. has not been convicted of a felony involving an
16 intentional violent act or the illegal use or possession of a
17 deadly weapon and has not been found to have violated
18 professional ethical standards;

19 E. has graduated from an accredited polygraph
20 examiners course approved by the department;

21 F. has:

22 (1) completed a probationary operational
23 competency period and passed an examination of ability approved
24 by the department to practice polygraphy; or

25 (2) submitted proof of holding, for a minimum

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1 of two years immediately preceding the date of application, a
2 current license to practice polygraphy in another jurisdiction
3 whose standards are equal to or greater than those in New
4 Mexico; and

5 G. meets other requirements set forth in the rules
6 of the department."

7 Section 14. A new section of the Private Investigations
8 Act, Section 61-27A-6.7 NMSA 1978, is enacted to read:

9 "61-27A-6.7. [NEW MATERIAL] PRIVATE INVESTIGATIONS
10 EMPLOYEE--REGISTRATION--REQUIREMENTS.--

11 A. On or after July 1, 2007, every individual who
12 seeks employment or is currently employed as a private
13 investigations employee shall file an application for
14 registration with the department.

15 B. The department shall issue a registration for a
16 private investigations employee to an individual who files a
17 completed application accompanied by the required fees and who
18 submits satisfactory evidence that the applicant:

19 (1) is at least eighteen years of age;

20 (2) is of good moral character;

21 (3) possesses a high school diploma or its
22 equivalent;

23 (4) has successfully completed an examination
24 as required by department rule;

25 (5) has not been convicted of a felony

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1 involving an intentional violent act or the illegal use or
2 possession of a deadly weapon and has not been found to have
3 violated professional ethical standards;

4 (6) shall be employed by a private
5 investigation company, under the direct control and supervision
6 of a private investigator; and

7 (7) meets other requirements set forth in
8 rules of the department.

9 C. If the employment of a private investigations
10 employee with a private investigation company terminates for
11 any reason, the registration of the individual as a private
12 investigations employee immediately terminates. The private
13 investigations employee shall turn over the employee's
14 registration to the private investigation company upon ceasing
15 employment with that company.

16 D. A private investigation company shall notify the
17 department within thirty days from the date of termination of
18 employment of a private investigations employee of the
19 employment termination and return the employee's registration
20 to the department."

21 Section 15. A new section of the Private Investigations
22 Act, Section 61-27A-6.8 NMSA 1978, is enacted to read:

23 "61-27A-6.8. [NEW MATERIAL] SECURITY GUARD--LEVELS OF
24 REGISTRATION.--

25 A. A security guard shall be registered at one of

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1 the three levels enumerated in this section that are based on
2 experience, age and other qualifications of the registrant:

3 (1) level one is the entry level registration
4 for security guards who will be working in a position not
5 requiring the registrant to carry arms;

6 (2) level two is the intermediate level
7 registration for security guards who are required to be armed
8 but not with firearms; and

9 (3) level three is the advanced level
10 registration for security guards who may be required to be
11 armed with a firearm.

12 B. Each security guard shall receive a card issued
13 by the department in the security guard's name with a definite
14 expiration date that shall be carried by the security guard at
15 all times when the security guard is performing duties that
16 require the security guard to be registered pursuant to the
17 provisions of this section. A security guard is not required
18 to obtain a new card each time the security guard changes
19 employment."

20 Section 16. A new section of the Private Investigations
21 Act, Section 61-27A-6.9 NMSA 1978, is enacted to read:

22 "61-27A-6.9. [NEW MATERIAL] SECURITY GUARD--LEVEL ONE--
23 REGISTRATION--REQUIREMENTS.--

24 A. On or after July 1, 2007, every individual
25 seeking employment or employed as a level one security guard

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1 shall file an application for registration with the department.

2 B. The department shall issue a registration for a
3 level one security guard to an individual who files a completed
4 application accompanied by the required fees and who submits
5 satisfactory evidence that the applicant:

6 (1) is at least eighteen years of age;

7 (2) is of good moral character;

8 (3) possesses a high school diploma or its
9 equivalent;

10 (4) has successfully completed an examination
11 as required by department rule;

12 (5) has not been convicted of a felony or an
13 offense involving an intentional violent act or the illegal use
14 or possession of a deadly weapon and has not been found to have
15 violated professional ethical standards;

16 (6) has completed a curriculum approved in
17 department rule consisting of at least sixteen hours of level
18 one security guard training prior to being placed on a guard
19 post for the first time as a level one security guard; that
20 training may be provided by:

21 (a) a public educational institution in
22 New Mexico or an educational institution licensed by the higher
23 education department pursuant to the Post-Secondary Educational
24 Institution Act;

25 (b) an in-house training program

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1 provided by a licensed private patrol company using a
2 curriculum approved by the department; or

3 (c) any other department-approved
4 educational institution using a curriculum approved by the
5 department and complying with department standards set forth in
6 department rules;

7 (7) is employed by a private patrol company
8 under the direct supervision of a licensed private patrol
9 operator, a level three security guard or a private patrol
10 operations manager; and

11 (8) meets other requirements set forth in
12 department rules.

13 C. A private patrol company shall notify the
14 department within thirty days from the date of termination of a
15 level one security guard of the employment termination."

16 Section 17. A new section of the Private Investigations
17 Act, Section 61-27A-6.10 NMSA 1978, is enacted to read:

18 "61-27A-6.10. [NEW MATERIAL] SECURITY GUARD--LEVEL TWO--
19 REGISTRATION--REQUIREMENTS.--

20 A. On or after July 1, 2007, every individual
21 seeking employment or employed as a level two security guard
22 shall file an application for registration with the department.

23 B. The department shall issue a registration for a
24 level two security guard to an individual who files a completed
25 application accompanied by the required fees and who submits

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1 satisfactory evidence that the applicant:

2 (1) meets the requirements to be granted
3 registration as a level one security guard and maintains in
4 good standing a current registration as a level one security
5 guard;

6 (2) has successfully completed an examination
7 as required by department rule;

8 (3) in addition to the training required to be
9 registered as a level one security guard, has completed a
10 curriculum approved in department rule consisting of at least
11 sixteen additional hours of level two security guard training
12 prior to being placed on a guard post for the first time as a
13 level two security guard; that training may be provided by:

14 (a) a public educational institution in
15 New Mexico or an educational institution licensed by the higher
16 education department pursuant to the Post-Secondary Educational
17 Institution Act;

18 (b) the New Mexico law enforcement
19 academy; or

20 (c) any other department-approved
21 educational institution using a curriculum approved by the
22 department and complying with department standards set forth in
23 department rules;

24 (4) is employed by a private patrol company
25 under the direct supervision of a licensed private patrol

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1 operator, a level three security guard or a private patrol
2 operations manager; and

3 (5) meets other requirements set forth in
4 department rules.

5 C. A private patrol company shall notify the
6 department within thirty days from the date of termination of a
7 level two security guard of the employment termination."

8 Section 18. A new section of the Private Investigations
9 Act, Section 61-27A-6.11 NMSA 1978, is enacted to read:

10 "61-27A-6.11. [NEW MATERIAL] SECURITY GUARD--LEVEL
11 THREE--REGISTRATION--REQUIREMENTS.--

12 A. On or after July 1, 2007, every individual
13 seeking employment or employed as a level three security guard
14 shall file an application for registration with the department.

15 B. The department shall issue a registration for a
16 level three security guard to an individual who files a
17 completed application accompanied by the required fees and who
18 submits satisfactory evidence that the applicant:

19 (1) is at least twenty-one years of age;

20 (2) meets the requirements to be granted
21 registration as a level two security guard and maintains in
22 good standing a current registration as a level two security
23 guard;

24 (3) has successfully completed an examination
25 as required by department rule;

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1 (4) in addition to the training required to be
2 registered as a level two security guard and before the
3 applicant shall be placed for the first time at a guard post as
4 a level three security guard, has completed a curriculum
5 approved by the department consisting of the minimum training
6 for firearm certification prescribed by the New Mexico law
7 enforcement academy or the national rifle association, and when
8 combined with other training required by the department totals
9 at least twenty-four hours; provided that the additional
10 training required by the department is provided by:

11 (a) a public educational institution in
12 New Mexico or an educational institution licensed by the higher
13 education department pursuant to the Post-Secondary Educational
14 Institution Act;

15 (b) the New Mexico law enforcement
16 academy; or

17 (c) any other department-approved
18 educational institution using a curriculum approved by the
19 department and complying with department standards set forth in
20 department rules;

21 (5) is firearm certified;

22 (6) is employed by a private patrol company
23 under the direct supervision of a licensed private patrol
24 operator, another level three security guard or a private
25 patrol operations manager; and

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1 (7) meets other requirements set forth in
2 department rules.

3 C. A private patrol company shall notify the
4 department within thirty days from the date of termination of a
5 level two security guard of the employment termination."

6 Section 19. A new section of the Private Investigations
7 Act, Section 61-27A-6.12 NMSA 1978, is enacted to read:

8 "61-27A-6.12. [NEW MATERIAL] SPECIAL EVENT PERMIT--
9 NONRESIDENT SECURITY GUARD PROCEDURE--QUALIFICATIONS--
10 PROHIBITED USE.--

11 A. A private patrol company employing a nonresident
12 security guard temporarily for a special event shall apply to
13 the department for and may be issued a special event permit for
14 each nonresident security guard qualified to be employed at the
15 special event.

16 B. A special event permit is issued for a specific
17 nonresident security guard and a specific special event and
18 shall not be transferred to another security guard or used for
19 a special event other than for the special event for which the
20 permit is issued.

21 C. To be issued a special event permit, a private
22 patrol company shall provide the department with a description
23 of the special event, its location and the dates on which the
24 temporary nonresident security guard will be employed to
25 provide services at the special event. A special event permit

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1 shall bear the name of the private patrol company and contact
2 information, the name of the nonresident security guard, the
3 name of the special event for which it is issued, the dates of
4 the special event and other pertinent information required by
5 the department.

6 D. A special event permit shall be issued only to
7 an individual who qualifies for a level one or higher security
8 guard registration and who:

- 9 (1) is not a resident of New Mexico;
10 (2) does not hold a registration as a security
11 guard in New Mexico; and
12 (3) meets other requirements specified by the
13 department.

14 E. A special event permit requiring a security
15 guard to carry a firearm shall only be issued to an individual
16 who is qualified to be registered as a level three security
17 guard.

18 F. It is a violation of the Private Investigations
19 Act for a private patrol company to circumvent the registration
20 process for permanent or long-term part-time employment of
21 security guards through use of the provisions of this section."

22 Section 20. A new section of the Private Investigations
23 Act, Section 61-27A-7.1 NMSA 1978, is enacted to read:

24 "61-27A-7.1. [NEW MATERIAL] FEES.--The department shall
25 establish a schedule of reasonable fees for the following:

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1 A. an application fee, not to exceed one hundred
2 dollars (\$100);

3 B. a license fee, not to exceed five hundred
4 dollars (\$500);

5 C. a registration fee, not to exceed two hundred
6 fifty dollars (\$250);

7 D. a renewal fee, not to exceed five hundred
8 dollars (\$500);

9 E. a reinstatement fee, not to exceed five hundred
10 dollars (\$500);

11 F. a late fee, not to exceed one hundred dollars
12 (\$100); and

13 G. an administrative fee, not to exceed two hundred
14 dollars (\$200)."

15 Section 21. A new section of the Private Investigations
16 Act, Section 61-27A-8.1 NMSA 1978, is enacted to read:

17 "61-27A-8.1. [NEW MATERIAL] LICENSE AND REGISTRATION
18 RENEWAL.--

19 A. A license or registration granted pursuant to
20 the provisions of the Private Investigations Act shall be
21 renewed by the department annually unless the term of the
22 license is set by the department in rule to be a longer period.

23 B. A licensee or registrant with an expired license
24 or registration shall not perform an activity for which a
25 license or registration is required pursuant to the Private

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1 Investigations Act until the license or registration has been
2 renewed or reinstated.

3 C. The department may require proof of continuing
4 education credits or other proof of competency as a requirement
5 of renewal or reinstatement of a license or registration.

6 D. A license or registration issued to a person
7 pursuant to the Private Investigations Act shall not be
8 transferred or assigned."

9 Section 22. Section 61-27A-9 NMSA 1978 (being Laws 1993,
10 Chapter 212, Section 9) is amended to read:

11 "61-27A-9. DISPLAY OF LICENSE--NOTIFICATION OF CHANGES.--

12 A. A license shall at all times be posted in a
13 conspicuous place in the principal place of business in New
14 Mexico of the licensee.

15 ~~[B. A licensee shall notify the department within~~
16 ~~thirty days after any change in his address, in the name under~~
17 ~~which he does business or in the officers or partners of the~~
18 ~~business.]~~

19 B. A copy of the registration of each registrant
20 employed by a private investigation company or a private patrol
21 company shall be maintained in the main New Mexico office of
22 the company and in the branch office in which the registrant
23 works.

24 C. A registration card issued by the department
25 shall at all times be in the possession of and located on the

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1 person of a registrant.

2 D. A security guard shall wear the registration
3 card on the outside of the guard's uniform so that the card is
4 visible to others.

5 E. A licensee, including owners, officers or
6 directors of a private investigation company or a private
7 patrol company, or a registrant shall notify the department
8 immediately in writing of a change in the mailing or contact
9 address of the licensee or registrant.

10 F. Failure to notify the department within thirty
11 days of changes required to be reported pursuant to this
12 section or failure to carry or display a registration as
13 required is grounds for suspension of a license or
14 registration."

15 Section 23. A new section of the Private Investigations
16 Act, Section 61-27A-10.1 NMSA 1978, is enacted to read:

17 "61-27A-10.1. [NEW MATERIAL] GENERAL OPERATIONS
18 PROVISIONS OF COMPANIES--MANAGEMENT--LIABILITY FOR EMPLOYEES'
19 CONDUCT--MAINTENANCE OF RECORDS REQUIRED--REQUIRED AND
20 PERMITTED ACTIVITIES--ALLOWED CATEGORIES OF UNLICENSED
21 EMPLOYEES.--

22 A. An owner of a private investigation company
23 providing services in New Mexico shall operate, direct, control
24 and manage that company provided that the owner is licensed as
25 a private investigator. An owner of a private investigation

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1 company who is not licensed as a private investigator shall
2 employ a private investigator as a private investigations
3 manager and shall turn over the operation, direction, control
4 and management of the private investigation company to that
5 manager.

6 B. An owner of a private patrol company providing
7 services in New Mexico shall operate, direct, control and
8 manage that company, provided that the owner is licensed as a
9 private patrol operator or registered as a level three security
10 guard. An owner of a private patrol company who is not
11 licensed as a private patrol operator or registered as a level
12 three security guard shall employ a private patrol operations
13 manager and shall turn over the operation, direction, control
14 and management of the private patrol company to that manager.

15 C. A private investigation company or a private
16 patrol company shall not conduct business under a fictitious
17 name until the company has obtained the authorization for use
18 of the name from the department. The department shall not
19 authorize the use of a fictitious name that may generate public
20 confusion with the name of a public officer or agency or the
21 name of an existing private investigation company or private
22 patrol company.

23 D. A private investigation company is liable for
24 the conduct of the company's employees, including the conduct
25 of its private investigations manager.

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1 E. A private patrol company is liable for the
2 conduct of the company's employees, including the conduct of
3 its private patrol operations manager.

4 F. A private investigation company or a private
5 patrol company shall maintain records of the qualifications,
6 performance and training of all of its current and former
7 employees as required by the department. The records are
8 subject to inspection by the department upon reasonable notice
9 to the owner or private investigations manager or private
10 patrol operations manager.

11 G. Except as otherwise provided in this section,
12 every employee of a licensed private investigation company or
13 private patrol company shall be licensed or registered by the
14 department as employees of the company with which the employee
15 is employed; provided, however, that a licensee or registrant
16 may work for more than one company concurrently.

17 H. A licensee or registrant shall notify the
18 department in writing within thirty days of each change in the
19 licensee's or registrant's employment by filing an amendment to
20 the licensee's or registrant's application obtained from the
21 department. If a licensee or registrant ceases to be employed
22 by a private investigation company or a private patrol company,
23 the licensee or registrant shall notify the department in
24 writing within thirty days from the date the licensee or
25 registrant ceases employment with that company.

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1 I. A private investigation company or a private
2 patrol company shall notify the department within thirty days
3 of a change in ownership structure or, if a corporation, a
4 change in the membership of the board of directors.

5 J. Employees of a private investigation company or
6 a private patrol company who are engaged exclusively to perform
7 stenographic, typing, word processing, secretarial,
8 receptionist, accounting, bookkeeping, information technology
9 or other business applications or support functions and who do
10 not perform the work of a private investigator, a private
11 patrol operator or a security guard are not required to be
12 licensed or registered pursuant to the Private Investigations
13 Act.

14 K. An individual who is not licensed or qualified
15 to be employed as a private investigations manager or a private
16 patrol operations manager shall not be employed to perform the
17 duties required of those managers."

18 Section 24. Section 61-27A-11 NMSA 1978 (being Laws 1993,
19 Chapter 212, Section 11) is amended to read:

20 "61-27A-11. BOND REQUIRED.--

21 A. A [~~license, except a manager's license and~~
22 ~~polygraph examiner's license, shall not be issued under the~~
23 ~~Private Investigators and Polygraphers Act unless the applicant~~
24 ~~files] private investigation company shall file with the
25 department [~~+~~] a surety bond executed by a surety company~~

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1 authorized to do business in this state. [~~or~~

2 ~~(2) a certificate of deposit in the sum of two~~
3 ~~thousand dollars (\$2,000), conditioned for the faithful and~~
4 ~~lawful conduct of business by the applicant.~~

5 ~~The form of bond, its execution and the sufficiency of the~~
6 ~~surety shall be verified by the department.~~

7 ~~B. A licensee shall maintain the surety bond, and,~~
8 ~~upon failure to do so, the license of the licensee shall be~~
9 ~~suspended and shall not be reinstated until an application in~~
10 ~~the form prescribed by the department is filed, together with a~~
11 ~~proper surety bond. The department may deny the application,~~
12 ~~notwithstanding the applicant's compliance with this section:~~

13 ~~(1) for any reason that would justify a~~
14 ~~refusal to issue or a suspension or a revocation of a license;~~
15 ~~or~~

16 ~~(2) for the performance by the applicant of~~
17 ~~any practice while under suspension for failure to keep his~~
18 ~~bond in force for which a license under the Private~~
19 ~~Investigators and Polygraphers Act is required.]~~

20 B. The owner or the chief executive officer of a
21 private investigation company that provides personal protection
22 or bodyguard services or the owner or the chief executive
23 office of a private patrol company shall maintain a general
24 liability certificate of insurance in an amount required by the
25 department.

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1 C. ~~[Bonds]~~ A surety bond or a general liability
2 certificate of insurance executed and filed with the department
3 pursuant to the Private ~~[Investigators and Polygraphers]~~
4 Investigations Act shall remain in force until the surety
5 company issuing the bond or the certificate has terminated
6 future ~~[liability]~~ indemnity by ~~[thirty-day]~~ notice to the
7 department."

8 Section 25. Section 61-27A-12 NMSA 1978 (being Laws 1993,
9 Chapter 212, Section 12) is amended to read:

10 "61-27A-12. PROHIBITED ACTS.--

11 A. ~~[Any]~~ A licensee or [manager for the licensee]
12 registrant may divulge to ~~[any]~~ a law enforcement officer or
13 district attorney, the attorney general or [his] the attorney
14 general's representatives ~~[any]~~ information ~~[he]~~ the licensee
15 or registrant acquires concerning ~~[any]~~ a criminal offense, but
16 ~~[he]~~ the licensee or registrant shall not divulge to any other
17 person, except as ~~[he]~~ the licensee or registrant is required
18 by law, ~~[any]~~ information acquired by ~~[him]~~ the licensee or
19 registrant except at the direction of ~~[his]~~ the licensee's or
20 registrant's employer or the client for whom the information
21 was obtained.

22 B. No licensee ~~[manager or employee of a licensee]~~
23 or registrant shall knowingly make ~~[any]~~ a false report to
24 ~~[his]~~ the licensee's or registrant's employer or the client for
25 whom the information was being obtained.

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1 C. No written report shall be submitted to a client
2 except by the licensee, ~~[the]~~ private investigations manager or
3 private patrol operations manager or a person authorized by
4 either of them, and the person submitting the report shall
5 exercise diligence in ascertaining whether the facts and
6 information of the report are true and correct.

7 D. No ~~[licensee, manager or employee of a]~~ private
8 investigator, private investigations manager or private
9 investigations employee shall use a badge in connection with
10 the official activities of the licensee's ~~[business]~~ or
11 employee's employment for a private investigation company.

12 E. No licensee ~~[manager or employee of a licensee]~~
13 or registrant shall use a title or wear a uniform, use an
14 insignia, use an identification card or make ~~[any]~~ a statement
15 with the intent to give an impression that ~~[he]~~ the licensee or
16 registrant is connected in any way with the federal or state
17 government or ~~[any]~~ a political subdivision of either.

18 F. No private patrol operator licensee, ~~[manager or~~
19 ~~employee of a private patrol operator licensee]~~ private patrol
20 operations manager or level three security guard shall use a
21 badge except when engaged in guard or patrol work and while
22 wearing a uniform.

23 G. No licensee or registrant shall appear as an
24 assignee party in ~~[any]~~ a proceeding involving a claim and
25 delivery ~~[replevin or other possessory]~~ action to recover or

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1 possess property or action for foreclosing a chattel mortgage,
2 mechanic's lien, materialman's lien or any other lien.

3 H. A polygraph examiner shall not ask questions
4 during the course of a polygraph examination relative to sexual
5 affairs of an examinee, the examinee's race, creed, religion or
6 union affiliation or [~~any~~] an activity not previously and
7 specifically agreed to by written consent."

8 Section 26. Section 61-27A-13 NMSA 1978 (being Laws 1993,
9 Chapter 212, Section 13) is amended to read:

10 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE
11 OR REGISTRATION.--In accordance with procedures contained in
12 the Uniform Licensing Act, the department may deny, suspend or
13 revoke [~~any~~] a license or registration held or applied for
14 under the Private [~~Investigators and Polygraphers~~]
15 Investigations Act or reprimand or place on probation a
16 licensee or registrant upon grounds that the licensee,
17 registrant or applicant:

18 A. made a false statement or gave false information
19 in connection with an application for a license or registration
20 or renewal or reinstatement of a license or registration;

21 B. violated [~~any~~] a provision of the Private
22 [~~Investigators and Polygraphers~~] Investigations Act;

23 C. violated [~~any~~] a rule of the department adopted
24 pursuant to [~~that~~] the Private Investigations Act;

25 D. has been convicted of a felony or any crime

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1 involving moral turpitude or illegally using, carrying or
2 possessing a deadly weapon;

3 E. impersonated or permitted or aided and abetted
4 an employee of a private investigation company or private
5 patrol company to impersonate a law enforcement officer or
6 employee of the United States or of [~~any~~] a state or political
7 subdivision of either;

8 F. committed or permitted [~~any~~] an employee of a
9 private investigation company or a private patrol company to
10 commit [~~any~~] an act while the license or registration of the
11 person licensed or registered pursuant to the Private
12 Investigations Act was expired that would be cause for the
13 suspension or revocation of a license or registration or
14 grounds for the denial of an application for a license or
15 registration;

16 G. willfully failed or refused to render to a
17 client services or a report as agreed between the parties, for
18 which compensation has been paid or tendered in accordance with
19 the agreement of the parties;

20 H. committed assault, battery or kidnapping or used
21 force or violence on [~~any~~] a person without [~~proper~~]
22 justification;

23 I. knowingly violated or advised, encouraged or
24 assisted the violation of [~~any~~] a court order or injunction in
25 the course of business of the licensee or registrant;

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1 J. knowingly issued a worthless or otherwise
2 fraudulent payroll check that is not redeemed within two days
3 of denial of payment [~~of any~~] by a bank;

4 K. has been chronically or persistently inebriated
5 or addicted to the illegal use of dangerous or narcotic drugs;

6 L. has been adjudged mentally incompetent or insane
7 by regularly constituted authorities; [~~or~~]

8 M. while unlicensed, committed or aided and abetted
9 the commission of any act for which a license is required under
10 the Private [~~Investigators and Polygraphers~~] Investigations
11 Act; or

12 N. has been found to have violated the requirements
13 of a state or federal labor, tax or employee benefit law or
14 rule."

15 Section 27. Section 61-27A-14 NMSA 1978 (being Laws 1993,
16 Chapter 212, Section 14) is amended to read:

17 "61-27A-14. HEARING--PENALTIES.--[~~Every~~]

18 A. A person who is denied a license or [~~employee~~]
19 registration or who has [~~his~~] a license or [~~employee~~]
20 registration suspended or revoked shall be entitled to a
21 hearing before the department if within twenty days after the
22 denial, suspension or revocation a request for a hearing is
23 [~~served on~~] received by the department. The procedures
24 [~~outlined in~~] of the Uniform Licensing Act shall be followed
25 pertaining to the hearing [~~insofar as~~] to the extent that they

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1 do not conflict with the provisions of the Private
2 [~~Investigators and Polygraphers~~] Investigations Act.

3 B. In accordance with the provisions of the Uniform
4 Licensing Act, and in addition to other penalties provided by
5 law, the department may impose the following:

6 (1) for a violation of the Private
7 Investigations Act, a civil penalty not to exceed one thousand
8 dollars (\$1,000) for each violation; and

9 (2) against a person who is found by the
10 department to be engaging in a practice regulated by the
11 department without an appropriate license or registration,
12 civil penalties not to exceed one thousand dollars (\$1,000)."

13 Section 28. Section 61-27A-16 NMSA 1978 (being Laws 1993,
14 Chapter 212, Section 16) is amended to read:

15 "61-27A-16. LICENSE NOT TRANSFERABLE.--

16 A. A license or registration issued [under]
17 pursuant to the Private [~~Investigators and Polygraphers~~]
18 Investigations Act [is] shall not [~~transferable or~~
19 reassignable] be transferred or assigned.

20 B. The department shall adopt by rule procedures
21 for changes in the name or management of a private
22 investigation company or private patrol company. If the
23 private investigation company or private patrol company fails
24 to comply with the procedures established by department rule,
25 the private investigation company or private patrol company

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1 shall be considered to be operating without a license."

2 Section 29. Section 61-27A-17 NMSA 1978 (being Laws 1993,
3 Chapter 212, Section 17) is amended to read:

4 "61-27A-17. LOCAL REGULATIONS.--The provisions of the
5 Private [~~Investigators and Polygraphers~~] Investigations Act
6 shall not prevent the local authorities of [~~any~~] a city [~~county~~
7 ~~or city and~~] or county by ordinance and within the exercise of
8 the police power of [~~such city, county or~~] the city [~~and~~] or
9 county from imposing local ordinances upon [~~any~~] a street
10 patrol special officer or [~~upon any~~] on a person licensed
11 [~~within the scope of~~] or registered pursuant to the Private
12 [~~Investigators and Polygraphers~~] Investigations Act if the
13 ordinances are consistent with that act."

14 Section 30. Section 61-27A-18 NMSA 1978 (being Laws 1993,
15 Chapter 212, Section 18) is amended to read:

16 "61-27A-18. FUND ESTABLISHED.--[~~There~~]

17 A. The "private investigations fund" is created in
18 the state treasury [~~the "private investigator and polygrapher~~
19 ~~fund"~~].

20 B. All license and registration fees received by
21 the department pursuant to the Private [~~Investigators and~~
22 ~~Polygraphers~~] Investigations Act shall be deposited in the fund
23 and [~~shall~~] are appropriated to the department to be used for
24 the administration and implementation of that act.

25 C. The state treasurer shall invest the fund as

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1 other state funds are invested, and all income derived from
2 investment of the fund shall be credited to the fund.

3 D. All balances in the fund shall remain in the
4 fund and shall not revert to the general fund.

5 E. The department shall administer the fund, and
6 money in the fund shall be expended by warrant issued by the
7 secretary of finance and administration on vouchers signed by
8 the superintendent of regulation and licensing.

9 F. No more than five percent of the fund shall be
10 used by the department for administration of the fund."

11 Section 31. A new section of the Private Investigations
12 Act, Section 61-27A-19.1 NMSA 1978, is enacted to read:

13 "61-27A-19.1. [NEW MATERIAL] FIREARMS.--A private
14 investigator, a private patrol operator, a private
15 investigations employee, a level three security guard or a
16 private patrol operations employee may carry a firearm upon
17 successful completion of the mandatory firearm training
18 required by rules of the department."

19 Section 32. Section 61-27A-20 NMSA 1978 (being Laws 1993,
20 Chapter 212, Section 20) is amended to read:

21 "61-27A-20. PENALTIES.--

22 A. A person who engages in a business regulated
23 [under] by the Private [~~Investigators and Polygraphers~~]
24 Investigations Act who fraudulently [~~represents himself to be~~]
25 makes a representation as being a licensee or [~~registered~~

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1 ~~employee]~~ registrant is guilty of a misdemeanor and if
2 convicted shall be [~~punished by a term of imprisonment less~~
3 ~~than one year or a fine of not more than one thousand dollars~~
4 ~~(\$1,000) or both.~~ A person] sentenced pursuant Section 31-19-1
5 NMSA 1978.

6 B. An individual who fraudulently represents that
7 [he] the individual is employed by a licensee is guilty of a
8 petty misdemeanor and if convicted shall be [~~punished by a term~~
9 ~~of imprisonment less than six months or a fine of not more than~~
10 ~~five hundred dollars (\$500) or both]~~ sentenced pursuant to
11 Section 31-19-1 NMSA 1978.

12 [~~B.~~] C. A person who violates [~~a provision]~~ a
13 mandatory requirement, as set forth by the department in rule,
14 of the Private [Investigators and Polygraphers] Investigations
15 Act, [except as provided for in Subsection A of this section]
16 is guilty of a petty misdemeanor except as provided in
17 Subsection A of this section and if convicted shall be
18 [~~punished by a fine of not more than five hundred dollars~~
19 ~~(\$500) or by imprisonment for not more than six months or both]~~
20 sentenced pursuant to Section 31-19-1 NMSA 1978."

21 Section 33. A new section of the Private Investigations
22 Act is enacted to read:

23 "[NEW MATERIAL] RECIPROCITY.--

24 A. The department may enter into a reciprocity
25 agreement with another state for the purpose of licensing or

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1 registering applicants to perform activities regulated by the
2 Private Investigations Act.

3 B. An applicant from another state at the time of
4 application for licensure or registration in New Mexico shall
5 be licensed or registered in that other state to perform the
6 services for which the applicant is seeking a New Mexico
7 license or registration.

8 C. The department may develop rules that allow for
9 reciprocity on a temporary or limited basis without requiring
10 an applicant licensed or registered in another state subject to
11 a reciprocity agreement to be licensed or registered in New
12 Mexico; provided that the state of licensure or registration:

13 (1) has licensure or registration requirements
14 that meet or exceed those of New Mexico;

15 (2) has no record of disciplinary action taken
16 against the applicant in the last year; and

17 (3) can verify that the applicant has engaged
18 in activities for at least one year in the state with
19 reciprocity that are required to be licensed or registered
20 pursuant to the Private Investigations Act."

21 Section 34. A new section of the Private Investigations
22 Act is enacted to read:

23 "[NEW MATERIAL] BACKGROUND INVESTIGATIONS.--

24 A. The department shall adopt rules that:

25 (1) are developed in conjunction with the

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1 department of public safety that require background
2 investigations of all persons licensed or registered pursuant
3 to the Private Investigations Act to determine if the person
4 has a criminal history;

5 (2) require all applicants for licensure or
6 registration to be fingerprinted on two fingerprint cards or
7 electronically as required for submission to the federal bureau
8 of investigation to conduct a national criminal history
9 investigation and for submission to the department of public
10 safety to conduct a state criminal history investigation;

11 (3) provide for an applicant to inspect or
12 challenge the validity of the record developed by the
13 background investigation if the applicant is denied a license
14 or registration; and

15 (4) establish a fee for fingerprinting and
16 conducting a background investigation for an applicant.

17 B. Arrest record information received from the
18 federal bureau of investigation and department of public safety
19 shall be privileged and shall not be disclosed to individuals
20 not directly involved in the decision affecting the specific
21 applicant or employee.

22 C. The applicant shall pay the cost of obtaining
23 criminal history information from the federal bureau of
24 investigation and the department of public safety.

25 D. Electronic live scans may be used for conducting

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1 criminal history investigations."

2 Section 35. A new section of the Private Investigations
3 Act is enacted to read:

4 "[NEW MATERIAL] TERMINATION OF AGENCY LIFE--DELAYED
5 REPEAL.--The private investigations advisory board is
6 terminated on July 1, 2011 pursuant to the Sunset Act. The
7 board shall continue to operate according to the provisions of
8 the Private Investigations Act until July 1, 2012. Effective
9 July 1, 2012, Chapter 61, Article 27A NMSA 1978 is repealed."

10 Section 36. TEMPORARY PROVISION--TRANSITION.--

11 A. A security guard, watchman, loss prevention
12 officer or patrolman licensed pursuant to the Private
13 Investigators and Polygraphers Act prior to July 1, 2007 shall
14 apply for registration pursuant to the Private Investigations
15 Act prior to October 31, 2007 to receive registration without
16 meeting the examination or educational requirements of the
17 Private Investigations Act.

18 B. Between July 1, 2007 and October 31, 2007, an
19 individual shall be registered as a level three security guard
20 without examination or further qualification by the regulation
21 and licensing department if the individual:

22 (1) worked as a security guard, watchman, loss
23 prevention officer or patrolman for the five years immediately
24 preceding July 1, 2007 and was licensed by the regulation and
25 licensing department to perform that work; and

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1 (2) was authorized pursuant to the Private
2 Investigators and Polygraphers Act prior to July 1, 2007 to
3 carry a firearm in the course of the individual's employment.

4 C. A security guard, watchman, loss prevention
5 officer or patrolman who is not qualified pursuant to
6 Subsection B of this section to be registered as a level three
7 security guard shall be registered by the regulation and
8 licensing department as a level one security guard if the
9 individual applies for registration pursuant to the Private
10 Investigations Act between July 1, 2007 and October 31, 2007,
11 except as provided in Subsection D of this section.

12 D. If the regulation and licensing department
13 finds, upon application by a security guard, watchman, loss
14 prevention officer or patrolman who is employed in that
15 capacity prior to July 1, 2007, that the applicant has applied
16 in a timely manner and presents exceptional circumstances, as
17 determined by the regulation and licensing department, in which
18 the applicant demonstrates cause for that applicant to be
19 registered as a level two security guard, the department in its
20 discretion may register the security guard applicant as a level
21 two security guard without examination or further
22 qualification.

23 E. A private investigator or private patrol
24 operator holding a certificate of deposit or surety bond in the
25 sum of two thousand dollars (\$2,000) shall be exempt from the

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1 bond provisions of the Private Investigations Act, provided
2 that the private investigator's or private patrol operator's
3 license remains current and the holder remains in good standing
4 with the regulation and licensing department.

5 F. A rule adopted by the regulation and licensing
6 department pursuant to the Private Investigators and
7 Polygraphers Act shall remain in effect until the regulation
8 and licensing department adopts rules to implement the Private
9 Investigations Act.

10 G. The regulation and licensing department shall
11 continue to register and license individuals pursuant to the
12 Private Investigators and Polygraphers Act until July 1, 2007,
13 or, if rules are not adopted by the regulation and licensing
14 department to implement the Private Investigations Act by July
15 1, 2007, until the regulation and licensing department adopts
16 rules to implement the Private Investigations Act. However,
17 rules shall be adopted and the regulation and licensing
18 department shall begin to license and register applicants
19 pursuant to the Private Investigations Act no later than
20 September 1, 2007.

21 H. Money in the private investigator and
22 polygrapher fund is transferred on July 1, 2007 to the private
23 investigations fund.

24 Section 37. REPEAL.--Sections 61-27A-7, 61-27A-8,
25 61-27A-10, 61-27A-19 and 61-27A-21 NMSA 1978 (being Laws 1993,
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1 Chapter 212, Sections 7, 8, 10 and 19 and Laws 2000, Chapter 4,
2 Section 16, as amended) are repealed.

3 Section 38. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2007.

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